**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**

**SPECIAL CRIMINAL APPLICATION No. 257 of 2006**

**For Approval and Signature:**

**HONOURABLE MR.JUSTICE M.R. SHAH**

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the Civil Judge?

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**PRAKASHCHANDRA PRANJIVANBHAI LAKHANI - Applicant(s)**
**Versus**
**GOKANI LOHANA MAHAJAN VADI THRO' VRAJLAL MANILAL KARIA & 6 - Respondent(s)**

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**Appearance :**
MR MUKTESH V PATEL for Applicant(s) : 1,MR.GANUBHAI M VAJA for Applicant(s) : 1,
MR ASHISH M DAGLI for Respondent(s) : 1,
NOTICE SERVED for Respondent(s) : 2 - 5.
MR KT DAVE, ADDL. PUBLIC PROSECUTOR for Respondent(s) : 6,
MR NIRAV C THAKKAR for Respondent(s) : 7,

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**CORAM : HONOURABLE MR.JUSTICE M.R. SHAH**

**Date : 14/09/2007**

**ORAL JUDGMENT**

1. By way of this petition under Article 226 of the Constitution of India, the petitioner who by

profession is an Advocate and Notary and a resident of Porbander has prayed for an appropriate Writ, direction and order directing respondent Nos. 3,4,5 and 7 i.e. Police Inspector, Porbander, Executive Magistrate, Mamlatadar and Executive Magistrate, Porbander, Sub Divisional Magistrate, S.D.M. Office, Porbander and Porbander Municipality to take appropriate steps restraining respondent Nos. 1 and 2 from using loud speaker, drums, musical instruments causing disturbance to the petitioners and other residents in the locality – 'Gokani Mahajan Vadi'.

2. By order dated 21.02.2006, learned Single Judge of this Court passed the following interim order:-

> *'1.Heard Mr.Muktesh Patel, learned counsel appearing for the petitioner.*
> *2. The Court is inclined to join Porbandar Municipality as party respondent no.7. The cause-title of the petition be amended forthwith.*
> *3. Notice, returnable on 09th March, 2006. The formal service of notice is waived by Mr.A.Y. Kogje, ld.APP, on behalf of the respondent-State.*
> *4.The responsible officer of the newly joined party respondent no.7-Porbandar Municipality shall produce a map of the area where this 'Gokani Vadi' and residential premises of the petitioner is situated and copy of the permission of the construction granted to the Trustees if granted by the respondent-Municipality in reference to the by-laws of Municipality. The Executive Magistrate and Police Sub Inspector shall*

*make necessary arrangement to see that without permission no loud speakers or microphones are used in the vicinity of 100 yards from the residence of the present petitioner and they shall do regular checking four times a day to see that the loud speakers are not being used at 'Gokani Vadi' by visiting the same i.e. once between 06-00 a.m. and 08-00 a.m., once between 12-00 noon and 02-00 p.m., once between 08-00 p.m. and 10-00 p.m. and once between 11-00 p.m. and 01-00 a.m. initially for a period between the date of receipt of the present order and the next returnable date.*
*5.It is clarified that this order would not come in the way in granting any permission for a reasonable period and to play microphone and/or loud speaker having permissible sound limit.'*

3. Today when the matter is called out, Mr.K.T.Dave, learned APP appearing on behalf of the respondent Nos. 3,4 and 5 under the instructions from the respective Officers has submitted that respondent Nos. 1 and 2 will not be permitted to use load speakers, drums and musical instruments so as to cause disturbance to the petitioner and other residents of said locality near 'Gokani Mahajan Vadi'. At present no such permission has been granted to respondent Nos. 1 and 2 to use loud speaker and other instruments causing disturbance to the petitioner and other residents. It is further submitted that respondent Nos. 3 to 5 would see to it that respondent Nos. 1 and 2 will not use loud

speaker and other instruments without prior permission of the competent authority and if any complaint is received by the petitioner and/or others against respondent Nos. 1 and 2 and others with regard to use of loud speakers and/or other instruments so as to cause disturbance to the petitioner and others, same will be attended by respondent Nos. 3 to 5 immediately, and necessary preventive and penal measures will be taken against respondent Nos. 1 and 2.

4. Mr.Ashish Dagli, learned Advocate appearing on behalf of respondent No.1 has submitted that they will not make use of loud speakers and/or other instruments so as to cause disturbance and inconvenience to the petitioners and others and; that they will use loud speaker and other instruments only after obtaining necessary permission from the competent authority.

5. Considering above and earlier interim order passed by this Court dated 21.02.2006, present petition is disposed of in terms of order dated 21.02.2006 and respondent Nos. 3 to 5 are directed to make necessary arrangements to see that without

permission no loud speakers or microphones are used in the vicinity of 100 yards from the residence of the present petitioner and they shall do regular checking at 'Gokani Vadi'. As and when if it is found by the petitioner and/or other that respondent Nos. 1 and 2 are using loud speaker and/or microphone distributing them without permission, they may approach respondent Nos. 3 to 5 and respondent Nos. 3 to 5 are directed to take immediate preventive as well as penal steps against respondent Nos. 1 and 2 and/or others who are found to be using such loudspeakers and microphone immediately. The concerned respondents are directed to comply with the above directions. With these present petition is disposed of.

[M.R.Shah, J.]

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